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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,298	03/16/2004	Rudolf Kienzler	72111	3893

7590 06/20/2007  
NORMAN H. ZIVIN  
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1185 Avenue of the Americas  
New York, NY 10036

EXAMINER
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MILLS, DANIEL J

ART UNIT	PAPER NUMBER
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3679

MAIL DATE	DELIVERY MODE
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06/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,298	<b>Applicant(s)</b> KIENZLER, RUDOLF	
	<b>Examiner</b> Daniel J. Mills	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10, 11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 19, 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 13-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/29/2005.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear in what way the "locking elements are not connected to each other" (claim 19 line 5) as they appear from the disclosure to be connected to one another by the end of the plunger.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

Claims 10, 11, 19, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Ganter (DE 10154692).

Regarding claims 10 and 19, Ganter discloses a lock pin (1) with pushbutton-operated axial locking, comprising a tubular body (4) having radially outwards directed recesses (15 and 16), an actuating plunger in said tubular body and axially displaceable under spring loading, a plurality of rigid locking elements (31) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved by pressure of said plunger, and wherein the locking elements are not connected to each other (both 31 are unconnected in as much as in applicant's invention) and wherein a proximate end of the actuating plunger forms a bearing shaft (at the end of 24, when it bears against 23) and the locking elements form a pivot bearing shell (at 23) for the bearing shaft.

Regarding claims 11 and 20, Ganter discloses a lock pin wherein the locking elements (20) are rigid, inflexible bodies.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claims 10, 11, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mills et al. (Mills – US 6,752,562).

Regarding claims 10 and 19, Mills discloses a lock pin (10) with pushbutton-operated axial locking, comprising a tubular body (14) having radially outwards directed recesses (42), an actuating plunger (16) in said tubular body and axially displaceable under spring loading (66), a plurality of rigid locking elements (82) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved by pressure of said plunger, and wherein the locking elements are not connected to each other (both 80 are unconnected except by the bearing shaft, as in applicant's invention) and wherein a proximate end of the actuating plunger forms a bearing shaft (86 is part of the proximate end of the plunger 16) and the locking elements form a pivot bearing shell (column 4 lines 33-35) for the bearing shaft.

Regarding claims 11 and 20, Mills discloses a lock pin wherein the locking elements are rigid, inflexible bodies.

Claims 10, 11, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Leitner (DE 3,223,302).

Regarding claims 10 and 19, Leitner discloses a lock pin with pushbutton-operated axial locking, comprising a tubular body (1) having radially outwards directed recesses (18 and 19), an actuating plunger (2) in said tubular body and axially displaceable under spring loading (21), a plurality of rigid locking elements (12 and 13) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved by pressure of said plunger, and wherein the locking elements are not connected to each other (both 12 and 13 are unconnected

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except by the bearing shaft, as in applicant's invention) and wherein a proximate end of the actuating plunger forms a bearing shaft and the locking elements form a pivot bearing shell for the bearing shaft.

Regarding claim 11 and 20, Leitner discloses a lock pin wherein the locking elements are rigid, inflexible bodies.

Claims 10, 11, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimbrell (US 575,032).

Regarding claims 10 and 19, Kimbrell discloses a lock pin with pushbutton-operated axial locking, comprising a tubular body (P) having radially outwards directed recesses (at K), an actuating plunger (A) in said tubular body and axially displaceable under spring loading (S), a plurality of rigid locking elements (K) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved by pressure of said plunger, and wherein the locking elements are not connected to each other (both K are unconnected except by the bearing shaft, as in applicant's invention) and wherein a proximate end of the actuating plunger forms a bearing shaft and the locking elements form a pivot bearing shell for the bearing shaft.

Regarding claim 11 and 20, Kimbrell discloses a lock pin wherein the locking elements are rigid, inflexible bodies.

***Response to Arguments***

Applicant's arguments filed 11/9/2006 have been fully considered but they are not persuasive.

Applicant argues that neither Mills et al. nor Leitner disclose a bearing shaft the proximate ends of their respective plunger. This is not persuasive, because Mills shows bearing shaft (86) to be at the proximate end of the plunger (16), and Leitner shows bearing shaft (11) to be at the proximate end of the plunger (16).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJM

DJM

5/23/2007

Daniel P. Stodola

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